

Ordinance No: 15-38
Zoning Text Amendment No: 03-09
Concerning: MPDUs in RE-1, RE-2, RE-2C
& RNC Zones
Draft No. & Date: 2 – 11/30/04
Introduced: May 13, 2003
Public Hearing: June 17, 2003; 7:30 PM
Adopted: November 30, 2004
Effective: April 1, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- establishing Moderately Priced Dwelling Unit (MPDU) requirements and optional development standards for the RE-1, ~~[[RE-2,]]~~ RE-2C, and RNC Zones based on Master Plan recommendation for public sewer service.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.32	“Development standards”
Section 59-C-1.6	“Development including moderately priced dwelling units”
DIVISION 59-C-9	“AGRICULTURAL ZONES”
Section 59-C-9.3	“Land uses”
Section 59-C-9.4	“Development Standards”
Section 59-C-9.57	Special regulations for development in the Rural Neighborhood Cluster zone.”

EXPLANATION: ***Boldface*** indicates a heading or a defined term.

Underlining indicates text that is added to existing laws by the original text amendment.

~~*[Single boldface brackets]*~~ indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

~~*[[Double boldface brackets]]*~~ indicate text that is deleted from the text amendment by amendment.

***** indicates existing law unaffected by the text amendment.

OPINION

Zoning Text Amendment No. 03-09 was introduced on May 13, 2003. Under ZTA, the Moderately Priced Dwelling Unit (MPDU) program would be extended to the large lot zones and certain agricultural zones (RE-1, RE-2, RE-2C and RNC). MPDUs would be required only for development in these zones if served by public sewer. The unit types would generally be limited to one-family detached and duplex units. Optional method development standards for the construction of MPDUs would be available, except in the RE-2 zone.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved as introduced.

The County Council held a public hearing on June 17, 2003, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on July 23, 2003 and October 20, 2004 to review the amendment. It is the Committee position after reviewing the ZTA and the public hearing record that MPDUs generally should be generally required throughout the County and that public sewer is the critical element for deciding where MPDUs should be required in the large lot zones and RNC zone. The Committee recommended that ZTA 03-09 be approved with a revision to allow townhouses as an alternative dwelling unit type to accommodate the construction of MPDUs in the large lot zones and the RNC zone. The Committee did not agree with the Planning Board that townhouses were an incompatible alternative dwelling unit type for MPDU construction in the large lot zones and the RNC zone. The Committee also recommended that any residential development for which a preliminary plan of subdivision was approved before the effective date of this ZTA that does not meet the MPDU requirements be grandfathered and allowed to continue in accordance with the standards in effect before this ZTA becomes effective.

Optional method standards and alternative housing types are recommended for the large lot zones, except the RE-2 zone. MPDUs were not seen by the Committee as a reasonable development option in the RE-2 zone. The Committee recommended that MPDUs not be required in the RE-2 zone, since based on information provided by Planning Board staff there are only very few parcels of 50 acres or more zoned RE-2 in sewer service S-1. Sewer service is not generally available in the large lot zones and the MPDU yield would be modest in any event.

The District Council reviewed Zoning Text Amendment No.03-09 at a worksession held on November 30, 2004, and accepted the recommendations of the Planning, Housing, and Economic Development Committee with a revision to clarify further that a link between MPDUs and sewer service does not imply that simply offering to build MPDUs will justify sewer service extensions. The Council agreed to include language indicating that MPDUs are required for development in the large lot and RNC zones that is served by public sewer and where designated for sewer service in the applicable master plan.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 03-09 will be approved as revised.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-C-1 is amended as follows:

DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.

* * *

59-C-1.32. Development standards.

In addition to the following, the regulations in sections 59-C-1.34, 59-C-1.35 and 59-C-1.36 shall apply:

	RE- 2 ¹	RE- 2C ¹	RE- 1 ¹	R- 200	R- 150 ³	R- 90	R- 60	R- 40 ²	R-4 plex	RMH 200
* * *										
59-C-1.329. Additional Development Requirements										
* * *										
(b) In the zones indicated thus (*), moderately priced dwelling units are required in accordance with the provisions of Chapter 25A and Section 59-C-1.6.	*8	*8	*8	*	*	*	*	*	*	*
* * *										

8 Required only for development that is served by public sewer service and where designated for sewer service in the applicable master plan. Any residential development that does not meet the requirements of Chapter 25A for which a preliminary plan of subdivision was approved before April 1, 2005 is a conforming use and may continue in accordance with the standards in effect before April 1, 2005.

* * *

59-C-1.6. Development including moderately priced dwelling units.

* * *

59-C-1.62. Development standards. [[In the case of an RE-2 Zone served by public sewer service, moderately priced dwelling units must be included in the development in accordance with Chapter 25A of the County Code, as amended. The number of moderately priced dwelling units must be at least 12.5 percent of the total number of dwelling units in accordance with Chapter 25A. The standard method of development requirements of subsections 59-C-1.31 and 59-C-1.32 apply. In all other applicable zones, the following development standards apply.]]

	<u>RE-2C</u> ⁸	<u>RE-1</u> ⁸	R-200	R-150	R-90	R-60	R-40
59-C-1.621. Uses Permitted. No uses are permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in section 59-C-1.31, title "Land Uses," subject to the provisions of article 5[8]9-G.							
Dwelling unit, one-family attached. ¹			P	P	P	P	P
Dwelling unit, one-family detached.	<u>P</u>	<u>P</u>	P	P	P	P	P
Dwelling unit, one-family semidetached. ¹	<u>P</u>	<u>P</u>	P	P	P	P	P
Townhouse. ¹	<u>P</u>	<u>P</u>	P	P	P	P	P
Mobile home, double-wide. ²	<u>P</u>	<u>P</u>	P	P	P	P	P
Registered living unit. ^{3,5}	<u>P</u>	<u>P</u>	P	P	P	P	
Accessory apartment. ³	<u>SE</u>	<u>SE</u>	SE	SE	SE	SE	
Bed-and-breakfast lodging with one or 2 guest rooms. ^{3,4}	<u>P</u>	<u>P</u>	P	P	P	SE	
Bed-and-breakfast lodging with 3, 4 or 5 guest rooms. ^{3,4}	<u>SE</u>	<u>SE</u>	SE	SE	SE	SE	
Accessory buildings and uses.	<u>P</u>	<u>P</u>	P	P	P	P	P
59-C-1.622. Density of development. The maximum number of dwelling units per acre of usable area, as defined in section 59-C-1.628(a), is	<u>0.48</u>	<u>1.22</u>	2.44	3.17	4.39	6.10	10.12
59-C-1.623. Setbacks from street (in feet).							
No detached dwelling must be nearer to any public street than:	<u>35</u>	<u>35</u>	25 ⁷	25 ⁷	25 ⁷	20	20
59-C-1.624. Yard requirements (in feet). For a side or rear yard that abuts a lot that is not developed under the provisions of this section 59-C-1.6, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than							
	<u>35</u>	<u>35</u>	20	20	20	15	15
59-C-1.625. Lot area and width.							
(a) Minimum net lot area (in sq.ft.):							
(1) For a one-family detached dwelling unit	<u>15,000</u>	<u>10,000</u>	6,000 ⁷	6,000 ⁷	5,000 ⁷	4,000 ⁷	4,000
(2) For each one-family semidetached dwelling unit	<u>7,500</u>	<u>5,000</u>	3,500	3,500	3,500	3,500	3,500
(3) For a townhouse, unless a smaller lot size is approved by the planning board. ⁶			1,500	1,500	1,500	1,500	1,500
(4) Where an individual lot for each dwelling unit is deemed to be infeasible because of the manner in which individual units are attached to each other the board may approve a site plan depicting more than one dwelling unit on a lot.							
(b) Minimum lot width for a one-family detached dwelling unit at existing or proposed street line (in feet):	<u>25</u>	<u>25</u>	25	25	25	25	25
59-C-1.626. Maximum Building Height (in Feet).							
(a) For a main building. The height must not exceed 3 stories or 40 feet. If the abutting lot is not developed under the							

provisions of this section 59-C-1.6, the yard abutting that lot must be increased by one foot for each 2 feet of height above 35 feet							
(b) For an accessory building. The height must not exceed 2 stories or 25 feet.							
59-C-1.627. Green area. Green area must be provided for each townhouse or one-family attached dwelling unit erected in the subdivision, at the rate, in square feet per unit, of			2,000	2,000	2,000	2,000	1,500

1
2 1 The maximum percentage of one-family attached or semidetached dwelling units,
3 townhouses, or a combination thereof, in a subdivision is:

- 4 RE-2C and RE-1 zones: 30%;
5 R-200 and R-150 Zones: 40%;
6 R-90 Zone: 50%;
7 R-60 Zone: 60%.

8
9 The balance must be one-family detached dwelling units. Except in the RE-1 and
10 RE-2C Zones, [T]he [p]Planning [b]Board may[, however,] approve a
11 development in which up to 100 percent of the total number of units consists of one-
12 family attached dwelling units, one-family semidetached dwelling units,
13 townhouses, or a combination thereof, upon a finding that a proposed development
14 is (1) more desirable from an environmental perspective than development that
15 would result from adherence to these percentage limits, and (2) compatible with
16 adjacent existing and approved development.

17 * * *

18 8 Required only for development that is served by public sewer service and where
19 designated for sewer service in the applicable master plan.

20
21 **Sec. 2. DIVISION 59-C-9 is amended as follows:**

22 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

23 * * *

24 **59-C-9.3. Land uses.**

No use is allowed except as indicated in the following table:

- **Permitted uses.** Uses designated by the letter "P" are permitted on any lot in the zones indicated, subject to all applicable regulations.
- **Special exception uses.** Uses designated by the letters "SE" may be authorized as special exceptions, in accordance with the provisions of Article 59-G.

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
(e) Residential:²						
Dwelling, one-family detached	P	P	P	P	P	P
<u>Dwelling, one-family semidetached*</u>						<u>P</u>
* * *						
<u>Townhouse.</u>						<u>P</u>

* * *

* Permitted only as part of a moderately-priced dwelling unit development. The maximum percentage of one-family semi-detached dwelling units in a subdivision is 30%.

* * *

59-C-9.4. Development standards.

The following requirements apply in all cases, except as specified in the optional standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and the exemption provisions of section 59-C-9.7.

* * *

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
<u>59-C-9.48. Additional Development Requirements</u>						
<u>In the zones indicated thus</u> <u>(*), moderately priced dwelling units are required in</u> <u>accordance with the provisions of Chapter 25A and Section</u> <u>59-C-9.57.</u>						<u>*5</u>

* * *

5 Required only for optional method of development that is served by public sewer service and where designated for sewer service in the applicable master plan. Any residential development that does not meet the requirements of Chapter 25A for which a preliminary plan of subdivision was approved before April 1, 2005 is a conforming use and may continue in accordance with the standards in effect before April 1, 2005.

59-C-9.5. Cluster development--Option in Rural Cluster zone and Low Density Rural Cluster zone.

* * *

59-C-9.57. Special regulations for development in the Rural Neighborhood Cluster zone.

59-C-9.571. Purpose.

The cluster method of development required in this zone is intended to preserve large areas of rural open space consistent with the recommendations of the applicable master or sector plan. Cluster development is required under either the standard method of development or the optional method. Under the optional method of development the maximum development unit density allowed may be increased to accommodate the construction of Moderately Priced Dwelling Units in accordance with Chapter 25A.

The following classes of uses are not permitted in the rural open space area. The exceptions noted in subsections (d) and (f) are not excluded from this area; they are permitted by right or special exception, as stated in section 59-C-9.3:

* * *

(d) Residential, with the following exceptions:

- a one-family detached dwelling;
- accessory apartment;
- a farm tenant dwelling in existence prior to application of the Rural Neighborhood Cluster zone, or a structure converted to a farm tenant dwelling included as part of a historic site designated in the Historic Master Plan;
- a one family semidetached dwelling and townhouse as part of a moderately-priced dwelling unit development;

* * *

59-C-9.573. Optional method of development.

The density of development, including the provision of Moderately Dwelling Units in accordance with Chapter 25A, [under the optional method] must not exceed [one] 1.22 dwelling units per gross acre. The density must conform to the recommendations and guidelines of the applicable master or sector plan. In such cases, the following development standards apply:

- (a) Minimum area of development: 10 acres, except that the Planning Board may waive this requirement where the property abuts an existing property developed under the provisions of this section, and the resulting development is a logical extension of the existing development.
- (b) Diversity of Lot Sizes: Under the optional method, a diversity of lot sizes is required for developments of 70 acres or more. Diversity of lot sizes is also

encouraged in developments of less than 70 acres in order to provide for a range of housing opportunities. Where diversity of lots is provided, the Planning Board must consider the compatibility of the proposed development with existing development on adjoining properties.

(c) Development standards: The standard method requirements of section 59-C-9.4[2] do not apply:

(i) Minimum lot area-4,000 sq. ft. for one-family detached units; 3,500 sq. ft. for one-family semi-detached units.

(ii) Minimum setback from the street-15 feet.

(iii) Yard requirements (in feet). A side yard, if provided, must be at least 8 feet. For a side or rear yard that abuts a lot that is not developed under the optional method of this section, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than 30 feet.

(iv) Minimum lot width for a one family detached dwelling unit at the existing or proposed street line-25 feet.

(v) Maximum building height-35 feet.

(vi) Maximum lot coverage for a one family detached dwelling unit-35 percent.

(vii) The rear and side yard setbacks for accessory structures [should] must be consistent with the requirements in the R-60 Zone, 5 feet for rear and side yard setbacks and 60 feet from the street.

Sec. 3. Effective date. This ordinance becomes effective April 1, 2005.

This is a correct copy of Council action.

Mary A. Edgar, CMC

Clerk of the Council